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## DECISION

THE COMPTROLLER GENERAL  
OF THE UNITED STATES

WASHINGTON, D. C. 20548

*[Protest of Department of Agriculture Contract Award]*

FILE:

B-200608

DATE: January 30, 1981

MATTER OF:

The University Foundation,  
California State University, Chico

DIGEST:

In face of 10 point difference in technical scores (out of maximum 100 points) and lack of basis in the record to support contracting officer's conclusion that difference justified award to lower-scored, lower-cost offeror, GAO cannot conclude that award had rational basis.

The University Foundation, California State University, Chico (Chico) protests the award of a contract to Utah State University (Utah) under request for proposals (RFP) FSQS-24-W-80 issued by the U.S. Department of Agriculture. The RFP solicited proposals for the training of Government employees in meat grading, inspection and acceptance procedures. Chico, which received the highest technical score, contends that the agency deviated from the RFP's evaluation criteria, which placed primary emphasis on technical factors, by making an award to Utah at its lower cost. Agriculture has advised us that it terminated Utah's contract for default on October 14, 1980, and resolicited its requirements. In addition, the record shows that Utah is not being held liable for any excess procurement costs.

We sustain the protest.

The RFP stated:

"Proposals will be evaluated with respect to their technical responsiveness and cost \* \* \*. Although cost is considered important, primary consideration for award will be technical qualifications and overall responsiveness to the RFP."

The RFP advised offerors that technical factors would receive 100 points, weighted 40 percent for "Organization

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and Personnel" and 60 percent for "General Quality and Responsiveness of Proposal." The RFP further advised that the offeror submitting the lowest cost would receive an additional 20 points, and other higher-priced proposals a percentage of 20 points based on the lowest-priced offer.

After receipt of initial proposals, an evaluation board evaluated the technical proposals of Chico and Utah, the only proposals received:

	<u>Technical Evaluation</u>	<u>Cost Evaluation</u>	<u>Total</u>
Chico	97	17 (\$136,082)	114
Utah	87	20 (\$112,876)	107

Neither offeror revised its proposal in its best and final offer.

Chico contends that by awarding a contract to the lower-rated Utah the contracting officer in effect made price the primary award determinant, rather than technical factors as specified in the RFP. In response, the contracting officer states that "the slight difference in technical and overall evaluation was inadequate to warrant award at the higher price offered by Chico."

We stated in Grey Advertising, Inc., 55 Comp. Gen. 1111, 1118 (1976), 76-1 CPD 325:

"\* \* \* We have consistently stated that 'technical point ratings are useful as guides for intelligent decision-making in the procurement process, but whether a given point spread between two competing proposals indicates the significant superiority of one proposal over another depends upon the facts and circumstances of each procurement and is primarily a matter within the discretion of the procuring agency' \* \* \*.

"\* \* \* the question of whether a difference in point scores is significant is for determination on the basis of both what that difference might mean in terms of performance and what it would

cost the Government to take advantage of it. As we said in 52 Comp. Gen. 358 (1972), the 'determinative element \* \* \* [is] not the difference in technical merit scores per se, but the considered judgment of the procuring agency concerning the significance of that difference.' 52 Comp. Gen. at 365."

Thus, even where, as here, cost is assigned evaluation points, a higher combined score (cost plus technical) does not in itself necessarily justify an award without consideration of price. 51 Comp. Gen. 153, 161 (1971).

Nonetheless, the record must show that there was a rational basis for the award decision, Tracor Jitco, Inc., 54 Comp. Gen. 896 (1975), 75-1 CPD 253, although the extent of the justification in the record necessary to support an award to a lower-rated, lower-cost firm obviously varies with the procurement circumstances. For example, where there is only a slight difference in technical scores, the fact that the lower-rated offeror submitted a substantially lower cost proposal may in itself be adequate support for an award to that firm. See ILC Dover, B-182104, November 29, 1974, 74-2 CPD 301. On the other hand, in 50 Comp. Gen. 246 (1970) our concurrence with the agency's view that a six-point differential (84 to 78) was insignificant given the higher-rated firm's higher cost was based on a technical evaluation report, and in B-173137(1), October 8, 1971, where it was determined that two firms were "technically equal" despite one's technical score edge of 15.8 points (out of 100), we found the award to the lower-scored firm to have been reasonable in light of a detailed analysis from the contracting agency of the particular differences in the proposals. See also Design Concepts, Inc., B-184658, January 23, 1976, 76-1 CPD 39, where we found that an award to an offeror whose technical proposal was scored five percent higher, but whose price was approximately four and one-half times higher than a competitor's (which appeared to be able to perform the work) on its face was unreasonable.

Here, the record furnished by the contracting agency contains only the composite score sheet for all the evaluation board members, with no individual rating sheet for each board participant and no narrative commentary on the strengths and weaknesses of each proposal. The only other evidence of record on the issue is the above-noted statement that "the slight difference in technical and overall evaluation was inadequate"

to justify an award at Chico's higher price, and another statement by the contracting officer that both offers were "competent and acceptable."

As indicated above, the mere fact that one firm scores higher in technical factors than a lower-cost offeror does not necessarily mean that award should be made to the higher-rated firm. Grey Advertising, Inc., supra. Rather, the selection officials must use their judgment to determine whether the difference in reported evaluation point scores indicates a superiority significant enough to justify an award at a higher price. However, the basis for the selection must be stated or otherwise indicated in the record; where the record is devoid of supporting rationale for the selection in a negotiated procurement, we cannot conclude that the agency had a rational basis for the selection. Wadell Engineering Corporation, B-199171, October 10, 1980, 80-2 CPD 269.

We recognize here that there was only a two point difference between Chico (58.8) and Utah (56.8) in the evaluation criterion worth 60 percent of the technical score, "General Quality and Responsiveness of Proposal," and an 8.6 difference in "Organization and Personnel" (38.4 to 29.8), worth only 40 percent of the technical score. Nevertheless, we also note that the "lesser" technical factor still was to be weighted twice as much as cost and, in any case, Agriculture does not suggest that as the reason for the selection of Utah. We requested more information on the selection from Agriculture, but the agency has advised us that there is no other documentation regarding the award determination.

In our view, the instant record is insufficient to support the selection of Utah instead of Chico. Without any factual explanation as to why the contracting officer concluded that the 10 point difference between the two technical proposals was in effect insubstantial, we simply cannot determine that the award to Utah was rationally founded. See Wadell Engineering Corporation, supra; Nashman Associates, Inc., B-192008, January 16, 1979, 79-1 CPD 23; ABT Associates, Inc., B-196365, May 27, 1980, 80-1 CPD 363 (where we held that the contracting officer's conclusionary statement that two proposals were "still acceptable" could not support his determination that the proposals were technically equal).

We sustain the protest. Agriculture has advised us that award under the repurchase is being withheld pending our

decision. In addition, since Utah will not be assessed any excess reprourement costs, the resolicitation cannot be viewed as a necessary effort to mitigate a defaulted contractor's damages. See PRB Uniforms, Inc., 56 Comp. Gen. 976, 977 (1977), 77-2 CPD 213. Finally, Chico states that it will accept an award at the price proposed under the original RFP. In view of these factors, we recommend that Agriculture cancel the new RFP, and award the terminated contract to Chico, if otherwise proper.

A handwritten signature in dark ink, appearing to read "Milton J. Fowler". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

For the Comptroller General  
of the United States